

AMENDED IN ASSEMBLY AUGUST 2, 2010
AMENDED IN ASSEMBLY JUNE 23, 2010
AMENDED IN ASSEMBLY JUNE 7, 2010
AMENDED IN ASSEMBLY FEBRUARY 23, 2010
AMENDED IN ASSEMBLY JUNE 24, 2009
AMENDED IN SENATE MAY 5, 2009
AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 282

Introduced by Senator Wright

February 24, 2009

An act to amend Section 12077 of, and to add Section 12062 to, the Penal Code, relating to deadly weapons transaction records.

LEGISLATIVE COUNSEL'S DIGEST

SB 282, as amended, Wright. Deadly weapons transaction records: firearms and ammunition.

Existing law provides that commencing February 1, 2011, a vendor shall not sell or otherwise transfer ownership of any handgun ammunition without, at the time of delivery, legibly recording specified information regarding the purchaser or transferee, and maintaining the record for a period of not less than 5 years, as specified. Existing law provides that violation of these provisions is a misdemeanor. Existing law also provides that the records shall be subject to inspection by any peace officer and certain others, as specified, for purposes of an investigation where access to those records is or may be relevant to that investigation, when seeking information about persons prohibited from

owning a firearm or ammunition, or when engaged in ensuring compliance with laws pertaining to firearms or ammunition, as specified.

This bill would provide that commencing February 1, 2011, except for investigatory and enforcement purposes described above, no ammunition vendor shall provide the required information to any 3rd party, or use the information for any purpose other than ~~what~~ *as* is required or authorized by statute or regulation, without the written consent of the purchaser or transferee. The bill would also provide that any required ammunition records that are no longer required to be maintained shall be destroyed in a manner that protects the privacy of the purchaser or transferee who is the subject of the record. The bill would provide that violation of these provisions is a misdemeanor.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Existing law requires certain information to be collected by firearms dealers in connection with the transfer of firearms and submitted to the Department of Justice, as specified.

This bill would provide that no firearms dealer shall provide the information required by those provisions to any 3rd party, or use the information for any purpose other than ~~what~~ *as* is required or authorized by statute or regulation, without the written consent of the purchaser or transferee. The bill would also provide that any of these records that are no longer required to be maintained, *if destroyed*, shall be destroyed in a manner that protects the privacy of the purchaser or transferee who is the subject of the record.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would provide that these provisions shall only become operative if AB 2358 of the 2009–10 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 2011.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12062 is added to the Penal Code, to
2 read:

1 12062. (a) Commencing February 1, 2011, except for the
2 purposes set forth in paragraph (5) of subdivision (a) of Section
3 12061, no vendor shall provide the information specified in
4 paragraph (3) of subdivision (a) of Section 12061 to any third
5 party, or use the information for any purpose other than ~~what as~~
6 is required or authorized by statute or regulation, without the
7 written consent of the purchaser or transferee of the handgun
8 ammunition who is the subject of the record.

9 (b) Any records generated pursuant to Section 12061 that are
10 no longer required to be maintained shall be destroyed in a manner
11 that protects the privacy of the purchaser or transferee who is the
12 subject of the record.

13 (c) A violation of this section is a misdemeanor.

14 SEC. 2. Section 12077 of the Penal Code is amended to read:

15 12077. (a) The Department of Justice shall prescribe the form
16 of the register and the record of electronic transfer pursuant to
17 Section 12074.

18 (b) (1) For handguns, information contained in the register or
19 record of electronic transfer shall be the date and time of sale,
20 make of firearm, peace officer exemption status pursuant to
21 subdivision (a) of Section 12078 and the agency name, dealer
22 waiting period exemption pursuant to subdivision (n) of Section
23 12078, dangerous weapons permit holder waiting period exemption
24 pursuant to subdivision (r) of Section 12078, curio and relic waiting
25 period exemption pursuant to subdivision (t) of Section 12078,
26 California Firearms Dealer number issued pursuant to Section
27 12071, for transactions occurring prior to January 1, 2003, the
28 purchaser's basic firearms safety certificate number issued pursuant
29 to Sections 12805 and 12809, for transactions occurring on or after
30 January 1, 2003, the purchaser's handgun safety certificate number
31 issued pursuant to Article 8 (commencing with Section 12800),
32 manufacturer's name if stamped on the firearm, model name or
33 number, if stamped on the firearm, if applicable, serial number,
34 other number (if more than one serial number is stamped on the
35 firearm), any identification number or mark assigned to the firearm
36 pursuant to Section 12092, caliber, type of firearm, if the firearm
37 is new or used, barrel length, color of the firearm, full name of
38 purchaser, purchaser's complete date of birth, purchaser's local
39 address, if current address is temporary, complete permanent
40 address of purchaser, identification of purchaser, purchaser's place

1 of birth (state or country), purchaser's complete telephone number,
2 purchaser's occupation, purchaser's sex, purchaser's physical
3 description, all legal names and aliases ever used by the purchaser,
4 yes or no answer to questions that prohibit purchase including, but
5 not limited to, conviction of a felony as described in Section 12021
6 or an offense described in Section 12021.1, the purchaser's status
7 as a person described in Section 8100 of the Welfare and
8 Institutions Code, whether the purchaser is a person who has been
9 adjudicated by a court to be a danger to others or found not guilty
10 by reason of insanity, whether the purchaser is a person who has
11 been found incompetent to stand trial or placed under
12 conservatorship by a court pursuant to Section 8103 of the Welfare
13 and Institutions Code, signature of purchaser, signature of
14 salesperson (as a witness to the purchaser's signature),
15 salesperson's certificate of eligibility number if he or she has
16 obtained a certificate of eligibility, name and complete address of
17 the dealer or firm selling the firearm as shown on the dealer's
18 license, the establishment number, if assigned, the dealer's
19 complete business telephone number, any information required by
20 Section 12082, any information required to determine whether or
21 not paragraph (6) of subdivision (c) of Section 12072 applies, and
22 a statement of the penalties for any person signing a fictitious name
23 or address or for knowingly furnishing any incorrect information
24 or for knowingly omitting any information required to be provided
25 for the register.

26 (2) Effective January 1, 2003, the purchaser shall provide his
27 or her right thumbprint on the register in a manner prescribed by
28 the department. No exception to this requirement shall be permitted
29 except by regulations adopted by the department.

30 (3) The firearms dealer shall record on the register or record of
31 electronic transfer the date that the handgun is delivered.

32 (c) (1) For firearms other than handguns, information contained
33 in the register or record of electronic transfer shall be the date and
34 time of sale, peace officer exemption status pursuant to subdivision
35 (a) of Section 12078 and the agency name, auction or event waiting
36 period exemption pursuant to subdivision (g) of Section 12078,
37 California Firearms Dealer number issued pursuant to Section
38 12071, dangerous weapons permitholder waiting period exemption
39 pursuant to subdivision (r) of Section 12078, curio and relic waiting
40 period exemption pursuant to paragraph (1) of subdivision (t) of

Section 12078, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), salesperson's certificate of eligibility number if he or she has obtained a certificate of eligibility, name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, any information required by Section 12082, and a statement of the penalties for any person signing a fictitious name or address or for knowingly furnishing any incorrect information or for knowingly omitting any information required to be provided for the register.

(2) Effective January 1, 2003, the purchaser shall provide his or her right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(3) The firearms dealer shall record on the register or record of electronic transfer the date that the firearm is delivered.

(d) Where the register is used, the following shall apply:

(1) Dealers shall use ink to complete each document.

(2) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(3) Each dealer shall be provided instructions regarding the procedure for completion of the form and routing of the form.

1 Dealers shall comply with these instructions which shall include
2 the information set forth in this subdivision.

3 (4) One firearm transaction shall be reported on each record of
4 sale document. For purposes of this subdivision, a “transaction”
5 means a single sale, loan, or transfer of any number of firearms
6 that are not handguns.

7 (e) The dealer or salesperson making a sale shall ensure that all
8 required information has been obtained from the purchaser. The
9 dealer and all salespersons shall be informed that incomplete
10 information will delay sales.

11 (f) Effective January 1, 2003, the purchaser’s name, date of
12 birth, and driver’s license or identification number shall be obtained
13 electronically from the magnetic strip on the purchaser’s driver’s
14 license or identification and shall not be supplied by any other
15 means except as authorized by the department. This requirement
16 shall not apply in either of the following cases:

17 (1) The purchaser’s identification consists of a military
18 identification card.

19 (2) Due to technical limitations, the magnetic strip reader is
20 unable to obtain the required information from the purchaser’s
21 identification. In those circumstances, the firearms dealer shall
22 obtain a photocopy of the identification as proof of compliance.

23 (3) In the event that the dealer has reported to the department
24 that the dealer’s equipment has failed, information pursuant to this
25 subdivision shall be obtained by an alternative method to be
26 determined by the department.

27 (g) No dealer shall provide the information required by this
28 section to any third party, or use the information for any purpose
29 other than ~~what~~ *as* is required or authorized by statute or regulation,
30 without the written consent of the purchaser or transferee.

31 (h) Any records generated pursuant to this section *by a person*
32 *licensed pursuant to Section 12071* that are no longer required to
33 be maintained *by that licensee, if destroyed*, shall be destroyed in
34 a manner that protects the privacy of the purchaser or transferee
35 who is the subject of the record.

36 (i) As used in this section, the following definitions shall control:

37 (1) “Purchaser” means the purchaser or transferee of a firearm
38 or the person being loaned a firearm.

39 (2) “Purchase” means the purchase, loan, or transfer of a firearm.

40 (3) “Sale” means the sale, loan, or transfer of a firearm.

1 SEC. 3. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

10 SEC. 4. *This act shall only become operative if Assembly Bill*
11 *2358 of the 2009–10 Regular Session of the Legislature is enacted*
12 *and becomes effective on or before January 1, 2011.*